

COMMUNITY AFFAIRS

Division Of Codes And Standards Uniform Construction Code

Uniform Fire Code

Fire suppression systems in nursing homes

Proposed Amendments: N.J.A.C. 5:23-6.3, 6.22 and N.J.A.C. 5:70-1.5, 4.3, 4.7

Authorized By: Susan Bass Levin, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-124 and -198.

Calendar: See Summary below for explanation of exception to calendar requirement.

Proposal Number:

Submit written comments by November 4, 2006 to:

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SUSAN BASS LEVIN
Commissioner

The agency proposal follows:

Summary

This rule proposal requires the installation of automatic sprinkler protection throughout all existing nursing homes.

Under the New Jersey Uniform Construction Code, N.J.A.C. 5:23, newly-constructed nursing homes have been required to have automatic sprinkler systems throughout since 1991. However, the retrofit requirements of the Uniform Fire Code, N.J.A.C. 5:23-4.7, give an exception from the sprinkler requirement for existing nursing homes that are constructed of noncombustible materials.

There were two fatal nursing home fires in 2003: one in Hartford, Connecticut in which 16 residents died and one in Nashville, Tennessee resulting in 15 deaths. Both of these homes

were constructed of noncombustible materials and did not have sprinkler systems, a situation allowed under current New Jersey law. In the aftermath of these fires, both states passed laws requiring all nursing homes to install sprinkler systems. Virginia also moved to require sprinklers in all nursing homes following a 1989 fire in which 12 residents died.

An NFPA analysis of data from 1994-1998 shows that there were 10.8 deaths per 1,000 fires in nursing homes without sprinklers versus 1.9 deaths per 1,000 fires in facilities with sprinklers. This represents an 82 percent reduction in deaths per 1,000 fires when automatic suppression systems were present. In July, 2004, the Government Accountability Office (GAO) issued a report on nursing home fire safety. This report was prepared in response to the fatal fires mentioned above. The GAO report begins its findings by pointing out that "sprinklers are considered to be the single most effective fire protection feature" and that "there has never been a multiple-death fire in a fully sprinklered nursing home."

The 2006 edition of the National Fire Protection Association (NFPA) 101, the Life Safety Code, includes a change to require suppression throughout all existing nursing homes. The federal agency responsible for setting nursing home safety standards, the Centers for Medicare and Medicaid Services (CMS), is required by law to adopt NFPA 101. It is not known when the CMS will move to adopt this most recent edition of the Life Safety Code. However, given the vulnerability of the residents of nursing homes, and the compelling evidence in support of this requirement, the Department has decided not to delay in the adoption of a requirement for the installation of sprinkler systems in all existing nursing homes.

The proposed amendment to N.J.A.C. 5:70-4.7(c), Subchapter 4 of the Uniform Fire Code, contains a requirement for the installation of automatic sprinkler systems in existing nursing homes. The proposed amendment eliminates the exception for nursing homes of noncombustible construction. It also states that nursing home owners will have three years from the effective date of this rule to bring their facilities into compliance.

The proposed rule removes the reference to nursing homes in the definition of the F-1 Use Group in the Uniform Fire Code at N.J.A.C. 5:70-1.5 and adds a definition of the term "nursing home."

Companion changes to the rehabilitation subcode of the Uniform Construction Code are proposed at N.J.A.C. 5:23-6.3 and 6.22 to add a definition of the term "nursing home" and to require that automatic suppression systems be installed throughout the work area in nursing homes undergoing reconstruction.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact Statement

The proposed amendments are expected to have a positive social impact. Nursing home residents are more vulnerable to fire and smoke because many of them are non-ambulatory. The installation of automatic fire sprinkler protection will increase fire and life safety within these facilities.

Economic Impact Statement

The proposed amendments may have a significant economic impact on some nursing homes. The cost of installing an automatic sprinkler system in an existing facility varies depending on the size and type of construction of the facility. However, the floor plan of most nursing homes will lend itself to the installation of a sprinkler system. Based on a survey conducted by the Department of Health and Senior Services in 2004, it is estimated that 50 to 60

nursing homes will be impacted by this requirement. The proposed rules give the owners of these nursing homes three years to comply with the requirement to install sprinkler systems.

Federal Standards Statement

No Federal standards analysis is required because the proposed amendments are not being proposed pursuant to Federal law or in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements. (See Summary above for a discussion of the federal requirements for nursing home fire safety.)

Jobs Impact Statement

The Department does not anticipate the creation or loss of any jobs as a result of these proposed amendments.

Agriculture Industry Impact Statement

The Department does not anticipate that the proposed amendments would have any impact on the agricultural industry.

Regulatory Flexibility Statement

The proposed amendments would not impose any new recordkeeping or reporting requirements on “small businesses,” as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments require the installation of automatic sprinkler systems in existing nursing homes, some of which may be small businesses as defined by the Act. Because this rule is proposed to enhance life safety for nursing home residents, no differential treatment of small businesses is appropriate.

Smart Growth Impact Statement

The Department does not anticipate that the proposed amendments would have any impact upon either the achievement of “smart growth” or the implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

5:23-6.3 Definitions

“Nursing home”: means a building used for nursing or custodial care on a 24 hour basis for more than five persons where evacuation is impractical (a group that, even with staff assistance, cannot reliably move to a point of safety in a timely manner) as defined in Section 22-1.3 of NFPA 101-97. This shall include intermediate care facilities, skilled nursing facilities and long term care facilities.

5:23-6.22 Basic Requirements – Groups I-2 and I-4

(a) Automatic Sprinkler System: An automatic sprinkler system shall be installed throughout the work area.

1. Exception: Automatic sprinklers shall not be required in buildings of Type 1 or Type 2A construction of any height or of Type 2B construction not over one story in height. **This exception shall not apply to nursing homes.**

2. Exception: Automatic sprinklers shall not be required in day care centers with an occupant load of 100 or less where all the children under 2 ½ years of age are cared for on the first floor and in which each child care room [as] has an exit door directly to the exterior. (Fire) (b)-(r) (No change.)

5:70-1.5 Definitions

“Nursing home”: means a building used for nursing or custodial care on a 24 hour basis for more than five persons where evacuation is impractical (a group that, even with staff assistance, cannot reliably move to a point of safety in a timely manner) as defined in Section 22-1.3 of NFPA 101-97. This shall include intermediate care facilities, skilled nursing facilities and long term care facilities.

“Use Group I-1”: This Use Group shall include buildings housing six or more individuals who, because of age, mental instability or other reasons, must live in a supervised environment but who are physically capable of responding to an emergency situation without personal assistance. Included in this group are uses such as facilities for children, aged persons, mentally impaired and convalescents including: convalescent facilities, group homes, homes for the aged, mentally retarded care facilities, [nursing homes (ambulatory),] orphanages and residential care facilities. Occupancies such as the above with five or less occupants shall be classified as a residential Use Group.

5:70-4.3 Relationship to Uniform Construction Code

(a) A building in full compliance with the subcodes adopted pursuant to the Uniform Construction Code Act and regulations in force at the time of its construction and possessing a valid certificate of occupancy shall not be required to conform to the more restrictive requirements established by this subchapter except as may be required by (a)[3] 2. - 4. below.

1. - 3. (No change.)

4. The requirements of N.J.A.C. 5:70-4.7(c) shall apply to all nursing homes, as defined in this Code, unless the provisions of (b) below are applicable.

(b) (No change.)

5:70-4.7 Fire suppression systems

(a)-(b) (No change.)

(c) All buildings of Use Group I-2 or portions thereof when separated in accordance with (l) below shall be equipped throughout with an automatic fire suppression system installed in accordance with the New Jersey Uniform Construction Code.

1. (No change.)

2. Within three years of the effective date of this amendment, all nursing homes shall be equipped throughout with an automatic fire suppression system installed in accordance with the New Jersey Uniform Construction Code. The exception contained in 1.i. above shall not apply to nursing homes.

(d)-(l) (No change.)